

CLAYTON COUNTY ORDINANCE #2-2023

TITLE: AN ORDINANCE PERMITTING THE LIMITED OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD UTILITY VEHICLES ON SECONDARY ROADWAYS IN CLAYTON COUNTY

SECTION 1. PURPOSE

The purpose of this ordinance is to designate that portion of the county secondary roadways designated by the Clayton County Board of Supervisors upon which an all-terrain vehicle and off-road utility vehicle may be operated.

SECTION 2. DEFINITIONS

- a. "All-terrain vehicle (ATV)" means a motorized vehicle with not less than three and not more than six low-pressure tires that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
- b. "Off-road Utility Vehicle (ORV)" means a motorized vehicle with not less than four and not more than eight low-pressure tires or rubberized tracks that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 2,000 pounds and that has a seat that is bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.
- c. "Primary roadways" means those roads and streets both inside and outside the boundaries of municipalities which are under the jurisdiction of the Iowa Department of Transportation.
- d. "Roadway" means that portion of a county road improved, designed, or ordinarily used for vehicular travel.
- e. "Secondary roadways" means those roads under the jurisdiction of Clayton County. "Secondary roadways" does not include primary roadways traveling through Clayton County, including but not limited to Highway 13, Highway 18, Highway 52, Highway 56, and Highway 128.

SECTION 3. OPERATION ON ROADWAYS

- a. A registered all-terrain vehicle or off-road utility vehicle may be operated on all secondary roadways with the exception of Clayton Road from the Garnavillo city limits to 232nd Street, subject to the restrictions contained in this ordinance.
- b. Notwithstanding paragraph "a", Clayton County, through the Secondary Roads department or Sheriff's Department, may prohibit the operating of an all-terrain vehicle or off-road utility vehicle:
 1. when the secondary road or segment thereof is closed to motor vehicle traffic pursuant to Iowa Code §306.41;
 2. when the secondary road or segment thereof is designated as a detour route pursuant to Iowa Code §306.41;
 3. on an Area Service "C" road when the access to such road is restricted by means of a gate or other barrier pursuant to Clayton County Ordinance #1-2018;
 4. for any other secondary road or segment thereof, for no more than seven consecutive days and no more than thirty days in a calendar year when the prohibited days are established by ordinance.

SECTION 4. RESTRICTIONS

- a. A person shall not operate an all-terrain vehicle or off-road utility vehicle:
 1. At an unreasonable rate of speed under all existing circumstances and in no event at a rate of speed greater than thirty-five miles per hour.
 2. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
 3. While under the influence of alcohol or any controlled substance.
 4. Without a lighted headlight at all times while the vehicle is operating on either a primary roadway or secondary roadway.
 5. Without the equipped parts, lamps and other equipment in proper condition and adjustment as required for motor vehicles as required under Iowa Code Chapter 321, including but not limited to the parts, lamps, and equipment required under Iowa Code §321.386, 321.387, 321.404, 321.432, and 321.437.
 6. Upon any railroad right-of-way, except that the all-terrain vehicle or off-road utility vehicle may be driven directly across a railroad right-of-way at an established crossing after yielding to all oncoming traffic and notwithstanding any other provisions of law. This paragraph does not apply to a law enforcement officer or railroad employee with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
 7. On any public land or roadway under the jurisdiction or control of the Clayton County Conservation Board, Iowa Department of Natural Resources, and/or the United States Fish and Wildlife Service.
- b. Any person operating an all-terrain vehicle or off-road utility vehicle with a firearm in the operator's possession shall abide by any applicable state laws during the time this ordinance is in effect.

- c. A person shall not operate an all-terrain vehicle or off-road utility vehicle with more persons on the vehicle than it was designed to carry, as provided by the manufacturer's specifications. This paragraph does not apply to a person who operates an all-terrain vehicle or off-road utility vehicle as part of a farm operation as defined in Iowa Code §352.2.
- d. A person shall not operate an all-terrain vehicle or off-road utility vehicle unless the person has a valid Iowa Driver's License, is 18 years of age or older at the time of operating, the said vehicle is duly registered as provided for in Iowa Code §321.17, and the person has proof of insurance for said vehicle as provided for in Iowa Code §321.20B.
- e. Operators between the ages of 12 and 18 shall have a valid IDNR Certification for an Off-Road Utility Vehicle education course and have the certificate in the person's possession while operating.
- f. Riding groups of more than 24 all-terrain vehicles or off-road utility vehicles shall not be allowed without a permit issued by the Board of Supervisors.
- g. A person shall not operate an all-terrain vehicle or off-road utility vehicle in any areas of the roadway ditch.

SECTION 5. CIVIL LIABILITY

The owner and operator of an all-terrain vehicle or off-road utility vehicle shall be jointly and severally liable for any injury or damage caused by the negligent operation of the vehicle. However, the owner of an all-terrain vehicle or off-road utility vehicle shall not be liable for any such injury or damage if the owner was not the operator of the vehicle at the time the injury or damage occurred and if the operator did not have the owner's consent to operate the vehicle at the time the injury or damage occurred.

SECTION 6. EXEMPTIONS

Registration shall not be required for all-terrain vehicles or off-road utility vehicles used exclusively as farm implements.

SECTION 7. PENALTIES

Any violation of this ordinance constitutes a simple misdemeanor punishable by a fine of at least \$105.00 and no more than \$855.00 and/or up to thirty days in jail.

SECTION 8. JURISDICTION

The provisions of this ordinance shall apply throughout Clayton County, Iowa, including municipalities that have not enacted a municipal ordinance dealing with similar subject matter.

SECTION 9. SEVERABILITY

If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of either the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 10. WHEN EFFECTIVE

This ordinance shall be effective after final passage, approval, and publication as provided by law.

PASSED AND ADOPTED this, 21st day of March, 2023.

/s/ Ray Peterson, Chairperson, Board of Supervisors

Attest: /s/ Jennifer Garms, Clayton County Auditor

First Reading: March 14, 2023
Second Reading: March 21, 2023
Third Reading: Waived
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